

ESTTA Tracking number: **ESTTA726358**

Filing date: **02/11/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91222006
Party	Plaintiff Facebook, Inc.
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Signature	/Rebecca Givner-Forbes/
Date	02/11/2016
Attachments	Joint Motion to Consolidate DB DESIGNBOOK.pdf(65346 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the matter of application Serial Nos. 86/331,248, 86/331,173, 86/324,885, 86/324,872

For the Trademark DESIGNBOOK

Published in the *Official Gazette* on December 2, 2014 and December 9, 2014

FACEBOOK, INC.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91222006 (parent)
)	
DESIGNBOOK LLC,)	
)	
Applicant.)	
_____)	

In the matter of application Serial Nos. 86/331,279, 86/324,904, 86/331,183

For the Trademark DESIGNBOOK.COM

Published in the *Official Gazette* on December 2, 2014 and December 9, 2014

FACEBOOK, INC.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91222010 (child)
)	
DESIGNBOOK LLC,)	
)	
Applicant.)	
_____)	

In the matter of application Serial Nos. 86/398,067, 86/398,064, 86/398,061, 86/398,046

For the Trademark DB DESIGNBOOK and Design

Published in the *Official Gazette* on June 2, 2015 and June 30, 2015

FACEBOOK, INC.,)	
)	
Opposer,)	
)	
v.)	Opposition No. 91225049
)	
DESIGNBOOK LLC,)	
)	
Applicant.)	
_____)	

JOINT MOTION TO CONSOLIDATE OPPOSITIONS AND RESET DEADLINES

Pursuant to 37 C.F.R. § 2.117(a) and TBMP § 510.02(a), Opposer Facebook, Inc. and Applicant Designbook LLC, by and through their respective undersigned counsel, hereby move the Board to consolidate Opposition No. 91225049 with Opposition No. 91222006 (already consolidated with Opposition No. 91222010) (collectively, the “Oppositions”) and to reset deadlines as set forth below.

I. THE BOARD SHOULD CONSOLIDATE THE OPPOSITIONS.

“When cases involving common questions of law or fact are pending before the Board, the Board may order the consolidation of the cases.” TBMP § 511; *see also* Fed. R. Civ. P. 42(a). The proceedings need not involve identical marks or applications in order to be ripe for consolidation. *See Be Sport, Inc. v. Al-Jazeera Satellite Channel*, 115 USPQ2d 1765, 1766, n. 6 (TTAB 2015) (proceedings involving different marks sharing the same dominant component were “ripe for consolidation”); *Dating DNA LLC v. Imagini Holdings Ltd.*, 94 USPQ2d 1889, 1893 (TTAB 2010) (consolidating proceedings involving “identical parties, similar marks, and related or identical issues”); *Venture Out Properties LLC v. Wynn Resorts Holdings LLC*, 81 USPQ2d 1887, 1889 (2007) (consolidating four oppositions to applications for marks sharing the component “CABANA” and covering different but related services). When determining whether to consolidate, the Board weighs the benefits to the parties in terms of the savings in time, effort, and expense against any prejudice or inconvenience that consolidation may cause. *See World Hockey Association v. Tudor Metal Products Corporation*, 185 USPQ 246, 248 (TTAB 1975).

The Oppositions involve the same parties and highly similar applications. All opposed applications include the DESIGNBOOK component. In addition, the opposed DB DESIGNBOOK + Design applications cover identical services to the opposed DESIGNBOOK and DESIGNBOOK.COM applications. Thus, consolidation will serve the interest of judicial economy and ensure consistency in the Board’s decisions on common issues of law.

Additionally, consolidation would save the parties time, effort, and expense, and would not cause any prejudice or inconvenience to either party. In light of the common issues of fact and law, consolidation would be “advantageous to [the] parties in the avoidance of the duplication of effort, loss of time, and the extra expense involved in conducting the proceedings [separately].” *World Hockey Association*, 185 USPQ at 248. As the parties’ discovery obligations with respect to one proceeding are likely to be identical or nearly identical to that in the other proceeding, consolidation will prevent the inevitable burden of serving nearly identical versions of initial disclosures, discovery requests and responses, and expert disclosures, subject to different deadlines. Consolidation will also eliminate the needless burden of preparing and presenting similar documents, testimony, and briefs during parallel trial periods. Further, as indicated by the consent of each party to this motion, neither party argues that it will suffer prejudice or inconvenience due to consolidation.

II. UPON CONSOLIDATION, THE BOARD SHOULD RESET DEADLINES.

As the Board has noted in previous orders in this dispute, the Board is “liberal in granting extensions...when requested to accommodate settlement talks.” Order, Opposition No. 91222010 (October 23, 2015), *quoting Miscellaneous Changes to Trademark Trial and Appeal Board Rules*,” 72 Fed. Reg. 42242, 42245 (Aug. 1, 2007); Order, Opposition No. 91222006 (October 28, 2015) (also stating that the “Board is liberal in granting extensions of time to accommodate settlement” after the required discovery conference is held).

The parties have held the required discovery conferences in the Oppositions, and are continuing to engage in settlement discussions. Accordingly, the parties respectfully request that, upon consolidation of the Oppositions, the Board issue an order holding that the deadlines in the consolidated proceeding are reset according to the schedule specified below, to which the parties have mutually consented:


Expert Disclosures Due	6/27/2016
Discovery Closes	7/27/2016
Plaintiff's Pretrial Disclosures	9/10/2016
Plaintiff's 30-day Trial Period Ends	10/25/2016
Defendant's Pretrial Disclosures	11/9/2016
Defendant's 30-day Trial Period Ends	12/24/2016
Plaintiff's Rebuttal Disclosures	1/8/2017
Plaintiff's 15-day Rebuttal Period Ends	2/7/2017

III. CONCLUSION.

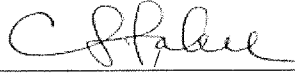
For the reasons set forth above, the parties hereby respectfully request that the Board issue an order: (1) consolidating the Oppositions; and (2) resetting deadlines in accordance with the schedule set forth above.

Respectfully submitted,

Date: February 9, 2016

By: 
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**COUNSEL FOR APPLICANT
DESIGNBOOK LLC**

CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below a true and complete copy of the foregoing **JOINT MOTION TO CONSOLIDATE OPPOSITIONS AND RESET DEADLINES** was, pursuant to the parties' stipulation, served electronically upon Applicant's correspondent for the subject application, via email to the following addresses:

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Date: February 11, 2016

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